CHAPTER III.

DUTIES AND POWERS OF THE MUNICIPAL AUTHORITIES.

Obligatory and Discretionary Duties of the Corporation.

61. It shall be incumbent on the corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take, for each of the following matters, namely :— Matters to be provided for by the corporation.

(*a*) the construction, maintenance and cleansing of drains and drainage works, and of public latrines, urinals and similar conveniences ;

(*b*) the construction and maintenance of works and means for providing a supply of water for public and private purposes ;

(*c*) scavenging and the removal and disposal of excrementitious and other filthy matter, and of all ashes, refuse and rubbish ;

(*d*) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances ;

(*e*) the regulation of places for the disposal of the dead and the provision of new places for the said purpose ;

(*f*) the registration of births and deaths ;

[1][(*ff*) public vaccination in accordance with the provisions of the Bombay Vaccination Act, 1877 ;] Bom. Act I of 1877.

(*g*) measures for preventing and checking the spread of dangerous diseases ;

[1][(*gg*) establishing and maintaining public hospitals and dispensaries and carrying out other measures necessary for public medical relief ;]

(*h*) the construction and maintenance of public markets and slaughter-houses and the regulation of all markets and slaughter-houses ;

(*j*) the regulation of offensive and dangerous trades ;

(*k*) the entertainment of a fire-brigade and the protection of life and property in the case of fire ;

(*l*) the securing or removal of dangerous buildings and places ;

(*m*) the construction, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like ;

[1] These clauses were inserted by s. 9 (*1*) of the City of Bombay Police Charges Act, 1907 (Bom. Act 3 of 1907), Vol. IV of this Code.

(*n*) the lighting, watering and cleansing of public streets ;

(*o*) the removal of obstructions and projections in or upon streets, bridges and other public places ;

(*p*) the naming of streets and the numbering of premises ;

(*q*) maintaining, aiding and suitably accommodating schools for primary education [1][subject always to the grant of building grants by Government in accordance with the Government Grant-in-Aid Code for the time being in force] ;

(*r*) the maintenance of a municipal office and of all public monuments and other property vesting in the corporation.

Corporation to provide a monthly sum to Government for maintaining certain medical institutions in Bombay.

[2][**62.** (*1*) The corporation shall also provide and pay to Government on the first day of every month a sum of thirty-four thousand five hundred and forty-one rupees ten annas and eight pies, and in consideration of such monthly payments Government shall continue to control and maintain the institution specified in Schedule U.

(*2*) Notwithstanding anything contained in clause (*gg*) of section 61, the corporation shall by such monthly payments be deemed to have made adequate provision for the maintenance of the said institutions and shall not be liable for any further expenditure in connection therewith.]

Fees to be charged by the corporation in public hospitals and dispensaries.

[2][**62A.** In public hospitals and dispensaries established and maintained, and in connection with other measures carried out, under clause (*gg*) of section 61 such fees, if any, may be charged as may be prescribed by the corporation.]

[2][3][**62B.** If there should be at any time a change in the general policy of Government in regard to their liability in respect of primary education, the corporation shall be entitled to benefit by such change in policy to the same extent as the city municipality.]

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[1] These words were added by s. 9 (*2*) of the City of Bombay Police Charges Act, 1907 (Bom. Act 3 of 1907), Vol. IV of this Code.

[2] Sections 62 to 62D were substituted for s. 62 by s. 10 *ibid*. Sections 62A, 62B and 62C came into force on the 1st March 1909, *see* Bombay Government Gazette, 1909, Pt. I, p. 229.

[3] This section was substituted for s. 62B by s. 20 of the City of Bombay Primary Education Act, 1920 (Bom. Act 15 of 1920), Vol. V of this Code.

[1] [**62C.** (*1*) All primary schools vesting wholly or partly in the corporation and all schools wholly or partly maintained by grants payable from the municipal fund shall at all times be open to all officers appointed by Government for the inspection of schools, and all reasonable facilities shall be given to any such officer for visiting any such school for the purpose of inspection or examination. Primary schools and schools maintained by grants to be open to officers appointed by Government for inspection.

(*2*) Every recommendation made regarding any such school by any such officer shall be duly considered by the Schools' Committee and the Schools' Committee may thereupon take such action as may in their opinion be required and shall, if so requested by the Director of Public Instruction for the Presidency of Bombay in any particular case, inform him of their decision and the action, if any, taken.

(*3*) In all matters connected with grants for the aid of primary schools other than municipal schools the Schools' Committee shall administer aid to schools complying with the necessary conditions in accordance with the provisions of the Government Grant-in-Aid Code, subject to such modifications, if any, as may from time to time be made in the said Code by the corporation with the previous sanction of Government.]

[1] [**62D.** The corporation shall provide and pay to Government on the first day of every month a sum of two thousand and eighty-three rupees five annas and four pies, for the purposes of the Prince of Wales' Museum of Western India.] Corporation to provide a monthly sum for the Prince of Wales' Museum in Western India.

63. The corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely :— Matters which may be provided for by the corporation at their discretion.

[2] * * * * * * *

(*b*) educational objects other than those set forth in clause (*q*) of section 61 ;

(*c*) constructing, maintaining or aiding libraries, museums and art galleries ;

(*d*) constructing or maintaining public parks and gardens and botanical and zoological collections ;

(*e*) planting and maintaining trees on roadsides and elsewhere ;

(*f*) surveys of buildings or lands ;

(*g*) registration of marriages ;

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[1] *See* the 2nd footnote on p. 70 *supra*.

[2] Clause (*a*) of this section was repealed by s. 11 of the City of Bombay Police Charges Act, 1907 (Bom. Act 3 of 1907), Vol. IV of this Code.

(*h*) taking of a census;

(*i*) preparation and presentation of addresses to persons of distinction;

[1] [(*ii*) providing music for the people;]

(*k*) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

And, with the previous sanction of Government, the corporation may make—

(*l*) such contribution as they think fit towards any public ceremony or entertainment in the city.

Respective Functions of the several Municipal Authorities.

Functions of the several municipal authorities.

64. (*1*) The respective functions of the several municipal authorities, and of any committee appointed under section 39, 40 or 41, shall be such as are specifically prescribed in or under this Act.

Municipal government of the city vests in the corporation.

(*2*) Except as in this Act otherwise expressly provided, the municipal government of the city vests in the corporation.

Special functions of the Commissioner.

(*3*) Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the corporation or the standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the Commissioner, who shall also—

(*a*) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act;

(*b*) prescribe the duties of, and exercise supervision and control over, the acts and proceedings of all municipal officers and servants, other than the municipal secretary and the municipal officers and servants immediately subordinate to him, and, subject to the regulations at the time being in force under section 81, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances;

(*c*) on the occurrence or the threatened occurrence of any sudden accident or unforeseen event, involving or likely to involve extensive damage to any property of the corporation or danger to human life, take such immediate action as the emergency shall appear to him to justify or to require, reporting forthwith to the standing committee and to the corporation, when he has done so, the action he has taken and his reasons for taking the

[1] This clause was inserted by s. 2 and First Schedule, Pt. II, of the Bombay Repealing and Amending Act, 1910 (Bom Act I of 1910), Vol. V of this Code.

same and the amount of cost, if any, incurred or likely to be incurred in consequence of such action, which is not covered by a current budget grant, within the meaning of that expression as defined in section 130.

Corporation may call for extracts from proceedings, etc., from the standing committee, etc.

65. The corporation may at any time call for any extract from any proceedings of the standing committee or of any committee or sub-committee constituted under this Act, and for any return, statement, account or report concerning or connected with any matter with which the standing committee or any such committee or sub-committee is empowered by or under this Act to deal; and every such requisition shall be complied with by the standing committee or other committee or sub-committee, as the case may be, without unreasonable delay.

Corporation may require the Commissioner to produce documents and furnish returns, reports, etc.

66. (*1*) The corporation may at any time require the Commissioner—

(*a*) to produce any record, correspondence, plan or other document which is in his possession or under his control as Commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;

(*b*) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal government of the city;

(*c*) to furnish a report by himself or to obtain from any head of a department subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal government of the city.

(*2*) Except as is hereinafter provided, every such requisition shall be complied with by the Commissioner without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the Commissioner in pursuance of any such requisition;

(*3*) Provided that if, on such a requisition as aforesaid being made, the Commissioner shall declare that immediate compliance therewith would be prejudicial to the interests of the corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the corporation after he shall have declared as aforesaid. If at such meeting, or any meeting subsequent thereto, the corporation shall repeat the requisition, and it shall then still appear to the Commissioner inexpedient to comply therewith, he shall make a declaration to that effect,

whereon it shall be lawful for the corporation to elect one councillor who with the president of the corporation and the chairman of the standing committee (or, if the president of the corporation is also chairman of the standing committee, with the said president and one member of their own body elected by the standing committee) shall form a committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents and matters as may be disclosed to them; and to the said committee the Commissioner shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition; and the said committee having taken cognizance of the information, writings and matters so laid before them shall determine, by a majority in case of difference, whether or not the whole or any part, and which part, if any, of such matters ought to be disclosed to the corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the corporation at the next ordinary meeting thereof, where also the Commissioner shall be prepared to produce documents and to make any report or statement requisite to give effect to the decision of the committee when called on to do so by the corporation.

(4) The heads of departments subordinate to the Commissioner are the executive engineer, the executive health officer, the assessor and collector, and the chief accountant.

Exercise of powers to be subject to sanction by corporation of the necessary expenditure.

67. The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act, which will involve expenditure, shall, except in any case specified in sub-section (2) of section 115, be subject to the following provisos, namely :—

(*a*) that such expenditure, so far as it is to be incurred in the official year in which such power is exercised or duty performed, shall be provided for under a current budget grant, within the meaning of that expression as defined in section 130; and

(*b*) that, if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said official year, liability for such expenditure shall not be incurred without the sanction of the corporation.

Municipal officers may be empowered to exercise certain of the powers, etc., of the Commissioner.

68. (*1*) Any of the powers, duties or functions conferred or imposed upon or vested in the Commissioner by any of the sections, sub-sections or clauses mentioned in sub-section (2) may be exercised, performed or discharged, under the Commissioner's control and subject to his revision and to such conditions and limitations, if any, as he shall think fit to prescribe, by any municipal officer whom the Commissioner generally or specially empowers in

writing in this behalf; and in each of the said sections, sub-sections and clauses the word "Commissioner" shall to the extent to which any municipal officer is so empowered, be deemed to include such officer.

[1][(2) The sections, sub-sections and clauses of this Act referred to in sub-section (*1*) are the following, namely :—

Section 82.
" 83.
" 84.
" 85, sub-section (*1*).
" 112.
" 113, sub-section (*3*).
" 142, sub-section (*2*).
" 119.
" 152, sub-section (*1*).
" 153, sub-section (*1*).
" 155, sub-sections (*1*) and (*3*).
" 160.
" 162.
" 163, sub-section (*1*).
" 164.
" 165, sub-sections (*1*) and (*2*).
" 174.
" 175.
" 176.
" 177.
" 187.
" 188.
" 189.
" 200.
" 201, sub-section (*2*).
" 202, sub-section (*1*).
" 209, sub-section (*1*).
" 210, sub-section (*1*).
[2]* * *
" 222, sub-sections (*1*) and (*2*).
" 228.

[1] Sub-section (*2*) of section 68 was substituted by s. 6 of the City of Bombay Municipal (Amendment) Act, 1905 (Bom. Act 5 of 1905), Vol. IV of this Code.

[2] The words and figures "section 214, sub-sections (2) and (3)" were omitted by s. 2 of the City of Bombay Municipal (Amendment) Act, 1921 (Bom. Act 7 of 1921), Vol. V of this Code.

Section 229.
" 232-A.
" 234.
" 240.
" 243, sub-section (*2*).
" 244.
" 246-A.
" 247.
" 248.
" 249.
" 249-A.
" 250, sub-section (*2*).
" 251.
" 251-B.
" 252.
" 253.
" 254.
" 255.
" 257.
" 258, clauses (*a*), (*b*) and (*c*).
" 259.
" 259-A.
" 263, sub-section (*1*).
" 265.
" 266.
" 272.
" 273.
" 273-A.
" 276.
" 278.
" 279, sub-section (*1*).
" 287.
" 298, sub-sections (*1*) and (*2*).
" 300, sub-section (*1*).
" 311.
" 314.
" 317.
" 319.
" 321, sub-section (*2*).
" 322.
" 324.

Section 325.
„ 326, sub-sections (2) and (3).
[1] [„ 328.
„ 328A].
„ 329.
„ 333, sub-section (4).
„ 334, sub-section (1).
„ 337, sub-section (1).
„ 338.
„ 339.
„ 340.
„ 342.
„ 343.
„ 344A.
„ 345.
„ 346, sub-section (1).
„ 347, clause (a).
„ 348, clauses (a), (b) and (c).
„ 349.
„ 349A.
„ 350.
„ 352.
„ 353A.
„ 354.
„ 354A.
„ 355.
„ 368.
„ 374.
„ 375.
[2] [„ 375A].
„ 377.
„ 379.
„ 379A.
„ 380.
[3] [„ 381].
[3] [„ 381A, sub-sections (1) and (2).]
„ 383.

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[1] These entries were inserted by s. 2 of the City of Bombay Municipal (Amendment) Act, 1921 (Bom. Act 7 of 1921), Vol. V of this Code.

[2] This section was inserted by s. 3, Bom. Act 1 of 1916.

[3] These words and figures were inserted by s. 1, Bom. Act 6 of 1913.

Section 384, clause (*a*).
[1][„ 384A].
„ 394.
„ 396, sub-section (*1*).
„ 403, clause (*e*).
„ 409.
„ 410, sub-section (*1*).
„ 412, sub-sections (*1*) and (2).
[2][„ 412A].
„ 413, sub-section (*1*).
„ 415.
„ 416.
„ 422.
„ 424, sub-section (*1*).
„ 425, sub-section (*1*).
„ 427, sub-section (*3*).
„ 455.
„ 479, sub-section (*5*).
„ 488.
„ 489
„ 492, clause (*a*).
„ 517, clause (*a*).

Powers, etc., conferred on the Commissioner by the Bombay Vaccination Act may be exercised by any municipal officer empowered in writing by the Commissioner.

[3][**68A**. Any of the powers, duties and functions conferred or imposed upon or vested in the Commissioner by the [4]Bombay Vaccination Act, 1877, may be exercised, performed or discharged, under the Commissioner's control and subject to his revision and to such conditions and limitations, if any, as he shall think fit to prescribe, by any municipal officer whom the Commissioner generally or specially empowers in writing in this behalf; and in the said Act the word "Commissioner" shall, to the extent to which any municipal officer is so empowered, be deemed to include such officer.] Bom. Act I of 1877.

Contracts.

Power to the Commissioner to execute contracts on behalf of the corporation.

69. With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect, namely—

(*a*) every such contract shall be made on behalf of the corporation by the Commissioner;

(*b*) no such contract for any purpose which, in accordance with any provision of this Act, the Commissioner may not carry out

[1] Inserted by s. 3, Bom. Act 1 of 1916.

[2] The word, figures and letter "section 412A" were inserted by s. 23 of the City of Bombay Municipal (Amendment) Act, 1922 (Bom. Act 6 of 1922), Vol. V of this Code.

[3] This section was inserted by s 12 of the City of Bombay Police Charges Act, 1907 (Bom. Act 3 of 1907, Vol. V of this Code.

[4] Vol. II of this Code.

without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given ;

(*c*) no contract, other than an agreement for the acquisition of immoveable property, which will involve an expenditure exceeding five thousand rupees, shall be made by the Commissioner unless the same is previously approved by the standing committee ;

(*d*) every contract made by the Commissioner involving an expenditure exceeding five hundred and not exceeding five thousand rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee ;

(*e*) the foregoing provisions of this section shall apply, respectively, to every contract which the Commissioner shall have occasion to make in the execution of this Act ; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

Mode of executing contracts.

70. (*1*) Every contract entered into by the Commissioner on behalf of the corporation shall be entered into in such manner and form as would bind the Commissioner if such contract were on his own behalf, and may in the like manner and form be varied or discharged : Provided that—

(*a*) where any such contract, if entered into by the Commissioner, would require to be under seal, the same shall be sealed with the common seal of the corporation ; and

(*b*) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the corporation and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods, and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(*2*) The common seal of the corporation, which shall remain in the custody of the municipal secretary, shall not be affixed to any contract, or other instrument, except in the presence of two members of the standing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

Contract not binding on the corporation unless executed as prescribed in section 70.

71. No contract not executed as in the last preceding section provided shall be binding on the corporation.

Tenders to be invited for contracts involving expenditure exceeding Rs. 3,000.

72. (*1*) Except as is hereinafter otherwise provided, the Commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding three thousand rupees, give notice by advertisement in the local newspapers, inviting tenders for such contract.

(*2*) The Commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provision of clause (*c*) of section 63, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous :

(*3*) Provided that the standing committee may authorize the Commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

Security when to be taken for performance of contract.

73. The Commissioner shall require sufficient security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

CHAPTER IV.

Municipal Officers and Servants.

Executive Engineer and Executive Health Officer.

Appointment of executive engineer, executive health officer and hydraulic engineer.

74. (*1*) The corporation shall appoint fit persons to be municipal executive engineer, [1] * * * municipal executive health officer, [2][and municipal hydraulic engineer].

(*2*) Each of the said officers shall—

(*a*) be appointed for a renewable term of five years ;

(*b*) devote his whole time and attention to the duties of his office ;

[1] The word " and " was omitted by s. 2 (*a*) of the City of Bombay Municipal (Amendment) Act, 1911 (Bom. Act 2 of 1911), Vol. V of this Code.

[2] These words were added by *ibid.*